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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Wassim Haddad

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10/15/2009

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EXAMINER

LUU, LE HIEN

ART UNIT

PAPER NUMBER

2454

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/697,951	<b>Applicant(s)</b> HADDAD, WASSIM	
	<b>Examiner</b> Le Luu	<b>Art Unit</b> 2454	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06/12/09.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

1. Claims 1-37 are presented for examination.

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1, 24, 27, 29, and 34-37 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claim 1 and 34-35, "the creation" lacks positive antecedent basis.

As to claim 24, 27, 29, and 36-37, "the hand-over" lacks positive antecedent basis.

Appropriate corrections are required.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-14, 19-21, 23-25, 27-28, and 33-36 are rejected under 35 U.S.C. § 103 (a) as being unpatentable over et al. (Chaskar), Pub. No. 2004/0196808, in view of Lette et al. (Lette), Pub. No. 2003/0018784.

6. As to claim 1, Chaskar teaches the invention substantially as claimed, including a

method of attempting to create an IP network connection between a computing device and a network by using a processor capable of determining bandwidth wherein the method comprises causing the processor to determine the bandwidth associated with at least a portion of the network connection that it is desired to make to the computing device from the network and further causing the processor to assess whether this bandwidth is available from the network before commencing creating the connection (page 3, paragraphs [0026 - 0031]; page 4, paragraph [0039]; page 6, paragraphs [0053 - 0054]).

However, Chaskar does not explicitly teach pre-allocating the bandwidth to the computing device in response to determining that the bandwidth is available.

Lette teaches pre-allocating bandwidth to consumer in response to determining that the bandwidth is available (pages 6-7, paragraphs [0052 – 0054]).

It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention to combine the teachings of Chaskar and Lette to pre-allocating the bandwidth to the computing device in response to determining that the bandwidth is available because it would reduce delays.

7. As to claims 2-7, Chaskar teaches hand-over a network connection to the network from an existing network; the network connection between the computing device and at least one of the network and the existing network comprises at least one channel; determine the bandwidth required by the at least one of the channels within the network connection; some channels to be maintained with the existing network, whilst other channels are handed over to the network; some channels to be handed over to

the network whilst other channels are terminated if they are not handed over to the network; the computing device ranks the order of importance of channels to be handed over to the network (page 3, paragraphs [0026 - 0031]; pages 4-6, paragraphs [0041, 0044 - 0046; 0053 - 0054]; Fig. 6).

8. As to claims 8-10, Chaskar teaches hand-over a connection between an existing network and a network each running the same protocol; hand-over a connection from an existing network comprising a first cell of a network and a network comprising a second, different, cell of that network; hand-over a connection from an existing network to a network operating on a different protocol (pages 4-6, paragraphs [0041, 0044 - 0046; 0053 - 0054]; Fig. 6).

9. As to claims 11-12, Chaskar teaches the bandwidth of connections that exist within the network are restricted in order to allow the network hand-over to take place; the restriction comprises termination (pages 4-6, paragraphs [0041, 0044 - 0046; 0053 - 0054]; Fig. 6).

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the

Art Unit: 2454

international application designated the United States and was published under Article 21(2) of such treaty in the English language.

or

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

11. Claims 15-18, 22, 26, 29-32, and 37 are rejected under 35 U.S.C. § 102(e) as being anticipated by Chaskar et al. (Chaskar), Pub. No. 2004/0196808.

12. As to claim 15, Chaskar teaches the invention as claimed, including a computing device capable of connecting to at least one wireless network, said computing device comprising a detector capable of detecting wireless networks and arranged to detect the existence of wireless networks to which the computing device is capable of connecting, a processor capable of determining bandwidth to generate a determined bandwidth and arranged to determine the bandwidth of at least one connection that it is desired to make between the computing device and a network, and a transmitter capable of transmitting determined bandwidth and arranged to transmit the determined bandwidth

Art Unit: 2454

determined by the processor to a network detected by the detector to which it is possible to make a connection; said computing device further comprising a transceiver capable of establishing a connection to a network and arranged to establish a connection with the network should sufficient bandwidth be available (page 3, paragraphs [0026 - 0031]; (pages 4-6, paragraphs [0041, 0044 - 0046; 0053 - 0054]; Fig. 6).

13. As to claims 16-18, Chaskar teaches connecting to at least two networks operating different protocols; arranging to transfer at least a portion of an existing connection from an existing network to a network; arranging to priorities portions of the existing connection to the existing network that should be maintained over and above other portions of the existing connection (page 3, paragraphs [0026 - 0031]; pages 4-6, paragraphs [0041, 0044 - 0046; 0053 - 0054]; Fig. 6).

14. Claims 13-14 and 19-37 have similar limitations as claims 1-12 and 15-18; therefore, they are rejected under the same rationale.

15. In the remarks, applicant argued in substance that

(A) Prior art does not teach pre-allocating the bandwidth to the computing device in response to determining that the bandwidth is available before commencing creating the connection.

As to point (A), please refer to new grounds of rejection discussed above.

(B) Prior art does not teach allowing some channels to be maintained with the

existing network, whilst other channels are handed over to the network.

As to point (B), Chaskar inherently teaches mobile terminal with multiple channels can move from service area supported by AR2 to overlapping service areas supported by AR2, AR3, and AR4; some channels can maintain with AR2 while other channels are handed over to the AR3 or AR4 (page 3, paragraphs [0026 - 0031]; pages 4-6, paragraphs [0041, 0044 - 0046; 0053 - 0054]; Fig. 6).

(C) Prior art does not teach the computing device ranks the order of importance of the channels to be handed over to the network.

As to point (C), Chaskar teaches user of mobile terminal can establish a profile to indicate preference for automatically handoff to either free access or cost-base access service area (pages 4-6, paragraphs [0041, 0044 - 0046; 0053 - 0054]; Fig. 6).

(D) Prior art does not teach a computing device capable of connecting to at least two wireless IP network simultaneously.

As to point (D), Chaskar inherently teaches when mobile terminal is in overlapping service areas supported by AR2, AR3, and AR4, the mobile terminal can connect to AR2, AR3, and AR4 simultaneously (pages 4-6, paragraphs [0041, 0044 - 0046; 0053 - 0054]; Fig. 6).

16. Applicant's arguments with respect to claims 1-37 have been considered but are deemed to be moot in view of the new grounds of rejection.

Applicant's amendment necessitated the new grounds of rejection. Accordingly, THIS ACTION IS MADE FINAL. See M.P.E.P. § 706.07(a). Applicant is reminded of



Art Unit: 2454

the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Le Luu whose telephone number is 571-272-3884. The examiner can normally be reached on 8:00am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached on 571-272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Le Luu/

Primary Examiner, Art Unit 2454